

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 12079 of 2014

Date of Decision: 5.8.2015

M/s Ajay Aggarwal Projects LLP, New Delhi and another
....Petitioners.

Versus

State of Haryana and others
...Respondents.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE DARSHAN SINGH.**

PRESENT: Mr. Aashish Chopra, Advocate for the petitioners.

Mr. Gaurav Jindal, Additional Advocate General, Haryana.

Mr. Maninder Singh, Advocate for
Mr. Dhiraj Chawla, Advocate for respondent No.3.

AJAY KUMAR MITTAL, J.

1. In this petition filed under Articles 226/227 of the Constitution of India, the petitioners have prayed for issuance of a writ in the nature of mandamus directing respondents No.1 to 4 not to take any action/steps on the notifications dated 27.9.2005 (Annexure P-1) issued under Section 17(2) Part (C) read with Section 4 of the Land Acquisition Act, 1894 (in short "the Act"), dated 2.6.2006 (Annexure P-2) under Section 17(2) Part (C) read with Section 6 of the Act and the award dated 24.1.2007 (Annexure P-6) qua their land measuring 15.85 acres, situated within the revenue estate of village Dhana, Sector 11, IMT (Manesar), Gurgaon, having lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition,

Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as “2013 Act”). Further, a writ of mandamus has also been sought directing respondent No.6 to grant licence for setting up a Cyber Park Colony on the land in question for which an application dated 29.12.2006 (Annexure P-3) under the provisions of Haryana Development and Regulation of Urban Areas Act, 1975 (for brevity, “1975 Act”).

2. The petitioners are owners of the land measuring 15.85 acres situated in village Dhana, Tehsil and District Gurgaon. Government of Haryana issued a notification dated 27.9.2005 (Annexure P-1) under Section 17(2) Part (C) read with Section 4 of the Act followed by notification dated 2.6.2006 (Annexure P-2) under Section 17(2) Part (C) read with Section 6 of the Act for acquisition of land including the land of the petitioners for the purpose of setting up of Chaudhary Devi Lal Industrial Model Township, Manesar by Haryana State Industrial and Infrastructure Development Corporation Ltd. (HSIIDC) and for non structural facilities and other public utilities like roads, water services, electrification, sewerage, drainage, transportation and telecommunications etc. The petitioners applied for grant of licence in the prescribed Form LC-I for setting up of a Cyber Park Colony on the land in question vide application dated 29.12.2006 before respondent No.6. Respondent No.4 issued notice dated 4.1.2007 under Section 9 of the Act to the petitioners to which they filed objections dated 19.1.2007 (Annexure P-4). Since no action was taken on their application, the petitioners filed CWP No. 1048 of 2007 for quashing of the said notifications. This Court vide order dated 23.1.2007 (Annexure P-5) dismissed the said writ petition as withdrawn with liberty to the petitioners to pursue their application dated 29.12.2006 (Annexure P-3)

for grant of licence for setting up a cyber park at village Dhana, Tehsil and District Gurgaon, Sector 65, measuring 15.85 acres. In pursuance thereto, the petitioners sent a letter dated 6.2.2007 for consideration of their application in terms of the directions of this Court. Similar letter dated 20.2.2007 was also sent. The award was passed on 24.1.2007 (Annexure P-6). The petitioners vide letter dated 11.8.2007 (Annexure P-7) sent 10 copies of the project report to the office of Director, Electronics and Information Technology, Haryana with a copy to respondent No.6. As no action was taken by respondent No.6 for grant of licence, the petitioners filed CWP No. 12793 of 2007 and this Court vide order dated 20.8.2007 (Annexure P-8) while issuing notice of motion, stayed their dispossession. Simultaneously the petitioners submitted a representation dated 21.8.2007 (Annexure P-9) to the Chief Minister, Haryana with a copy to the Industries Minister-cum-Chairman, Land Release Committee, Financial Commissioner-cum-Principal Secretary, Department of Industries and Director of Industries for the release of their land. Thereafter, the petitioners sent a letter dated 30.8.2007 (Annexure P-10) along with copies of the orders dated 23.1.2007 and 20.8.2007 to respondent No.5 with a copy to respondent Nos.3, 4 and 6. The letters dated 4.9.2007 (Annexure P-11) and dated 17.9.2007 were received from respondent No.2 and the Financial Commissioner-cum-Principal Secretary, Government of Haryana, Electronics and Information Technology Department informing the schedule of meeting for approval of the project report. The said meeting was postponed and intimation in this regard was sent vide letter dated 19.9.2007 (Annexure P-12). The District Town Planner, Gurgaon in its report dated 7.8.2007 written to respondent No.6 stated that sectoral

plan of the sector has not yet been prepared and the land of the petitioner derives approach from 11 feet wide revenue rasta on the site plan and as per Final Development Plan, Gurgaon, the site fell in Sector M-11. The petitioners sent a letter dated 20.9.2007 to respondent No.6 informing that from the physical inspection of the site in question, the applied site derives access/approach from at least 45 meters dual carriageway road. The letters dated 24.9.2007 (Annexure P-13 Colly) were sent by the petitioners to respondent No.2 along with a copy of CWP No. 12793 of 2007 and the order dated 20.8.2007 stating therein that the possession of the land in question was with the petitioners and various documents were attached therewith. Respondent No.2 vide letter dated 1.10.2007 informed the petitioners about the schedule of meeting on 3.10.2007 of the Minister's Land Release Committee. The said committee decided to defer the project proposal of the petitioners as informed by the Financial Commissioner-cum-Principal Secretary, Government of Haryana, Electronics and Information Technology Department vide letter dated 5.10.2007. This Court vide order dated 19.8.2008 (Annexure P-14) directed respondents No.5 and 6 to decide the application of the petitioners on merits in light of the existing policy, if any within a period of eight weeks from the date of receipt of certified copy of the order and status quo to be maintained till final decision of the said application. Respondent No.6 vide letter dated 14.3.2009 (Annexure P-15) had directed the petitioners to appear before it for personal hearing. In pursuance thereto, the petitioners submitted a written note, Annexure P-16, before respondent No.6 who vide order dated 18.5.2009 (Annexure P-17) refused their request for grant of licence. Against the said order, Annexure P-17, the petitioners filed an

appeal before respondent No.5 who vide order dated 27.11.2009 (Annexure P-18) accepted the appeal and directed for consideration afresh of the application for grant of licence. Pursuant thereto, respondent No.6 vide order dated 17.1.2011 (Annexure P-19) rejected the application of the petitioners. Upon receipt of the said order, the petitioners gave their response dated 28.3.2011 (Annexure P-20). Respondent No.6 vide order dated 7.10.2011 (Annexure P-21) rejected the application for grant of licence to the petitioners against which the petitioners filed an appeal (Annexure P-22) before respondent No.5 who vide order dated 28.3.2014 (Annexure P-23) set aside the order, Annexure P-21, and remanded the matter back to respondent No.6 to consider the application of the petitioner for grant of licence. The petitioners filed an application, Annexure P-24, before respondent No.5 seeking clarification of the order dated 7.10.2011 which is pending. They are still in physical possession of the land in question. No compensation has been paid to them. According to the petitioners, the acquisition proceedings have lapsed in view of Section 24(2) of the 2013 Act. Hence, the present writ petition.

3. Learned counsel for the petitioners submitted that the petitioners are in physical possession of the land in dispute and compensation has not been paid to them. It was claimed that in such circumstances, in view of Section 24(2) of the 2013 Act, the notifications under Sections 4 and 6 of the Act had lapsed. It was further submitted that since no demand notice claiming the relief as claimed in respect of lapse of notifications has been filed with the respondents, liberty be granted to the petitioners to file a detailed and comprehensive representation before the appropriate authority by incorporating the

grievance as raised in the present writ petition, however, direction be issued to the authority concerned to decide the representation expeditiously in a time bound manner in accordance with law.

4. After hearing learned counsel for the parties, perusing the present petition and without expressing any opinion on the merits of the case, we dispose of the present petition by granting liberty to the petitioners to file a detailed and comprehensive representation raising all the pleas as raised in the present writ petition before the appropriate authority. It is directed that in the event of a representation being filed by the petitioners within a period of two months from today, the same shall be decided in accordance with law by passing a speaking order and after affording an opportunity of hearing to them within a period of four months from the date of receipt of representation. The petitioners shall be entitled to lead any evidence to substantiate their claim before the concerned authority. Till the matter is decided by the said authority, status quo shall be maintained by the parties. It is, however, made clear that in case no such representation is filed within the stipulated period as noticed above, the interim order shall cease to operate, thereafter.

(AJAY KUMAR MITTAL)
JUDGE

August 5, 2015
gbs

(DARSHAN SINGH)
JUDGE